08-13555-mg Doc 28486 Filed 05/17/12 Entered 06/06/12 12:16:35 Main Document Pg 1 of 10

Charles W. Schoenherr 41 Broad Brook Lane Stamford, CT 06907 (203) 921-8774



May 16, 2012

Hon. James M. Peck United States Bankruptcy Court One Bowling Green, Courtroom 601 New York, NY 10004

Office of the United States Trustee for Region 2 33 Whitehall Street, 21<sup>st</sup> Floor New York, NY 10004 Attn: Tracy Hope Davis, Esq. Elisabeth Gasparini, Esq. Andrea Schwartz, Esq. Robert J. Lemons, Esq. Mark Bernstein, Esq. Weil Gotshal & Manges LLP 767 Fifth Ave New York, NY 10153

Re: Response to Debtors' Two Hundred Eighty-Eighth Omnibus

Objection to Claims (Employment Related Claims)

**Chapter 11 Case No. 08-13555 (JMP)** 

Dear Sir or Madam:

I am writing concerning the Debtors Objection to my Proof of Claim – Claim Number 12945 (Case Number 08-13555). The Objection appears to ask the court to deny my Proof of Claim on the basis that I did not work for Lehman Brothers Holdings. I find this extremely disconcerting as I was an employee of Lehman Brothers Holdings for over 7 years from 2001 to late 2008. As proof of such employment, I have attached a copy of forms which were used by employees to exercise grants of stock options which were awarded to employees by Lehman Brothers Holdings (LBHI).

I was paid by Lehman Brothers Holdings and worked in their Fixed Income Department for 7 years. As a result, I filed a claim against LBHI and received a "Receipt of Proof of Claim" shortly thereafter (see attached). My claim arose from a transaction I originated for Lehman Brothers Real Estate Partners, Sunset Villas, which was sold for a large profit in early 2008. All of the Investors received their original equity back plus a very handsome profit. Due to the chaos surrounding the company during the summer of 2008, my finder's fee was not paid in a

timely manner. However, I did receive a letter on September 11, 2008 which detailed my interest in this transaction (See attached letter and claim) and noted that I would be paid shortly thereafter. Obviously, due to the bankruptcy, my finder's fee was never paid and now the Debtor is claiming that I didn't work there.

I find the recent Objection filed by the Debtor to be insulting and disingenuous and respectfully request that the court reject the Debtor's claim and that my claim be honored in a timely manner. I truly believe that it would be extremely inequitable to deny my claim since all other investors got paid in full on this transaction. Your consideration to this matter is greatly appreciated.

Respectfully submitted,

Charlie Schoenherr

## LEHMAN BROTHERS

#### MEMORANDUM

TO:

Charlie Schoenherr

FROM:

Mike Odrich Brett Bossung Mark Newman

DATE:

September 11, 2008

CC:

Mark Walsh Ruth Horowitz Robert Shaw Rodolpho Amboss Eileen Sullivan

SUBJECT:

Finder's Payment for Investment in Sunset Villas

Based on your Notional Interest in Lehman Brothers Real Estate Partners, L.P. and its affiliated investment partnerships a distribution is due to you as follows:

Notional Interest

\$12,224

Pro-Rata Share of Distribution	\$132,559
Less Outstanding Notional Interest in Portfolio Investment	(45,383)
Gross Proceeds	87,176
Less Lehman Cost of Capital (charged on outstanding Notional Interest)	(12,224)
Net Proceeds (before taxes)	\$74,952

Please remember that your distribution will be on a pre-tax basis and therefore Lehman is obligated to withhold payroll-related taxes on any proceeds due to you.

This payment is expected to be included in your payroll check from Lehman on or about January 31, 2009.

Please e-mail robert.shaw@lehman.com if you have any questions.

United States Be Lehman Brothers I c/o Epiq Bankrupto FDR Station, P.O. New York, NY 10	cy Solutions, LLC Box 5076	728486 of File 005/17/12 Pg 4	Entered 06/06/ <b>12:13:</b> 0 of 10	OF 30 F WairAPpopument
In Re: Lehman Brothers I	Debtors.	Chapter 11 Case No. 08-13555 (JMP) (Jointly Administered) Case No. of Debtor	UNIQUE IDENTIFICATION NUMB	ER: 555053140
	RS HOLDINGS, INC.	08-13555 (JMP)		
may be filed pursua	ment of the case. A request for	laim for an administrative expense arising or payment of an administrative expense onaly, this form should not be used to make inition on reverse side.)	THIS SPACE IS	S FOR COURT USE ONLY
different from Crec LBH CHARI 41 BRC STAMF	ditor) (MERGE2.DBF,SCHED_NO) LES, SCHOENHERR AND BROOK LANE FORD, CT 06907	address where notices should be sent if  SCHEDULE #: 555053140*****  Cas choenherr &  Scorr - capi bil.  mail Address: ent (if different from above)  ABove	that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.	NOTICE OF SCHEDULED CLAIM: Your Claim is scheduled by the indicated Debtor as:  SCHEDULE G - EXECUTORY CONTRACT OR UNEXPIRED LEASE  DESCRIPTION: RESTRICTED STOCK UNIT AGREEMENT
Telephone number	: E	mail Address:	Check this box if you are the debtor or trustee in this case.	
If all or part of you item 4.  If all or part of you Check this bo Check this bo The Intervention of	r claim is entitled to priority r claim qualifies as an Adm x if all or part of your claim X IS BASED ON AMOUTEE OF A DEBTOR, YOU DEED OF A DEBTOR, YOU DEED OF A DEBTOR, YOU DEED OF A DEBTOR, YOU WITH TO WANTE TO COMPOUTE TONS TO COMPOUTE TO A TO COMPOUTE TO COMPOUTE TO A TO COMPOUTE TO	e Item 4 below; however, if all of your clair y, complete Item 5. inistrative Expense under 11 U.S.C. §503( n is based on a Derivative Contract.* n is based on a Guarantee.* NTS OWED PURSUANT TO EITHER. J MUST ALSO LOG ON TO http://www.LETE THE APPLICABLE QUESTION OUR CLAIM WILL BE DISALLOWE or other charges in addition to the principal arges. Attach itemized statement of interest assed on a Derivative Contract or Guarantee.  The creditor identifies debtor:  The creditor identifies debtor:	A DERIVATIVE CONTRACT  N.lehman-claims.com AND  NAIRE AND UPLOAD  D.  Il amount of the claim. Attach for charges to this form or on  Contract to the contract	5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.  Specify the priority of the claim:  Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).  Wages, salaries or commissions (up to \$10,950), earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).  Contributions to an employee benefit plan -11 U.S.C. § 507(a)(5).  Up to \$2,425 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).  Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).  Other - Specify applicable paragraph of 11 U.S.C. § 507(a)().  Amount entitled to priority:  \$ 74 952  Lease for the fall of the following categories are specify applicable paragraph of 11 U.S.C. § 507(a)().
		Amount Unsecured: \$Administrative Expense under 11 U.S.C.		Tinders Fees
(See instruction	on #6 on reverse side.)	his claim has been credited for the purpose		
8. Documents: A orders, invoices, ite. Attach redacted cop on reverse side.) If to DO NOT SEND O SCANNING.	attach redacted copies of an mized statements of runnin pies of documents providing the documents are volumin	y documents that support the claim, such a g accounts, contracts, judgments, mortgag g evidence of perfection of a security intercous, attach a summary.  S. ATTACHED DOCUMENTS MAY B	as promissory notes, purchase es and security agreements. est. (See definition of "redacted"	FOR COURT USE ONLY
Date:	person authorized to file this above. A pack copy of power	ng this claim must sign it. Sign and print name a claim and state address and telephone number it of attorney, if any.  occurrent of up to \$500,000 or in	f different from the notice address	
1	enutry for presenting frau	ument claim: rine of up to \$500,000 or in	norisonment for up to 5 years, or bo	un. 16 U.S.C. 88 157 and 3571

BNYIC - Domestic Customer Form

### IRREVOCABLE LETTER OF INSTRUCTION

I hereby authorize and instruct Lehman Brothers Holdings (the "Company") to deliver the certificate(s) representing the shares I am acquiring through the exercise of employee stock options (plus any cash or stock dividend, split, spin-off or other distribution [collectively, "distributions"] paid by the Company after issuance of the certificate(s) until such certificate(s) is/are transferred out of my name) in nominee name of BNY Clearing Services LLC to:

> BNY Investment Center Inc. 1633 Broadway 9th Floor New York, New York 10019 Attention: Cashless Stock Option Coordinator

I request that the delivery of said certificate(s) and distributions to BNY Investment Center Inc. ("BNYIC") be made as promptly as possible. When said certificate(s) and any distributions are delivered to BNYIC, they should be designated for Account Number (if new account, leave blank). I also authorize and instruct the Company to furnish to BNYIC any information or documents it may request.

This letter of instruction is irrevocable.

OPTIONEE'S PRINTED NAME: Charles Schoenher DATE 12/21/05

### 

**Stock Option Exercise Authorization** 

### THIS FORM MUST BE RETURNED BEFORE ANY OPTION EXERCISE AND STOCK SALE

I anticipate, at some future time or from time to time, exercising my stock options pursuant to provisions of Lehman Brothers Holdings stock option plans. As to my stock options, I hereby give notice to Lehman Brothers Holdings and BNY Investment Center Inc. as follows:

Transaction Authorization: BNY Investment Center Inc. is authorized to open a cash account for me and to act on my telephonic, facsimile and or mail instructions to exercise stock options on my behalf, purchasing the shares underlying my options, and, when I so instruct, selling those shares. I understand that my telephonic, facsimile and/or mail instructions to BNY Investment Center Inc. are irrevocable. BNY Investment Center Inc. is authorized to provide Lehman Brothers Holdings with confirmation of sale and sale price in relation to these transactions.

**Payment Authorization:** For any option exercise and sale for which I give BNY Investment Center Inc. Instructions, BNY Investment Center Inc. is authorized to make full payment to Lehman Brothers Holdings for the option exercise price and, when required, for taxes due. BNY Investment Center Inc. will release the balance of sale proceeds, after the deduction of all applicable fees, to me.

Stock Delivery Authorization; Indemnity: Lehman Brothers Holdings is authorized to issue shares for all options I exercise through BNY Investment Center, Inc. in the name of \*PERSHING LLC (Clearing Broker) and forward the shares (plus any dividend, split, or similar distribution paid by Lehman Brothers Holdings with respect to such shares) directly to BNY Investment Center Inc. for my account. I agree to indemnify Lehman Brothers Holdings and BNY Investment Center Inc. for any loss they may suffer as a result of their compliance with my authorizations set forth herein and my instructions.

Insider Trading: I acknowledge that the sale of option stock is subject to "insider trading" prohibitions - that it is a violation of federal securities laws to sell Lehman Brothers Holdings stock while in possession of "inside" information about Lehman Brothers Holdings I will not sell the stock at any time I have material non-public information about Lehman Brothers Holdings that, if made public, could affect the price of Lehman Brothers Holdings

Customer Identification Program (CIP). To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account. What this means for you: When you open an account, we will ask for your name, address, date of birth and other information that will allow us to identify you. We may also ask to see your driver's license or other identifying documents and we we may contact other persons or entities to verify that information you have

Lehman Brothers Holdings Certification - as required by the IRS: Under penalties of perjury, I certify that: (1) The Tax ID shown on this form is my correct Social Security Number, and (2) I am not subject to backup withholding because either (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding. Certification Instruction: You must cross out and initial item (2) above if you are currently subject to backup withholding. (3) I am a U.S person (including a U.S resident alien). I understand that I must cross out the text in clause (2) above if I have been notified by the IRS that I am subject to backup withholding as a result of underreporting dividend or interest income.

( ) I meet the requirements of 2a above as an exempt recipient.

# The IRS does not require your consent to any provision of this document other than the certification required to avoid backup withholding.

I represent that I have read the terms and conditions governing this account and agree to be bound by such terms and conditions as currently in effect and as may be amended from time to time. This account is governed by a pre-dispute arbitration agreement that appears on paragraph 26 in the customer agreement; I acknowledge receipt of the pre-dispute arbitration agreement.

Option Holder Information: (Please print clearly)

I am over the age of majority in my state of residence. If not a U.S. citizen, state citizenship:

Printed Name:	Charles Schoenher Date of Birth 1/23/60			
U. S. Social Security Number:	079-56-7802 Drivers Lic #/ Passport # CT-135052307			
Legal Address: No PO Boxes Please)	41 BROAD BROOK LANE STAMFORD, CT 06907			
Felephone Numbers: Signature:	daytime (212) 526-5069 home (203) 322-9647  CWSchoenlen Date: 12/21/05			

BNY Investment Center Inc.

1633 Broadway, 9th Floor New York, NY 10019 (800) 255-8282 (212) 237-0722 (212) 399-0726 (fax)

\* PERSHING LLC is a wholly owned subsidiary of The Bank of New York Company, Inc.
BNYIC Member NASD/SIPC..

## NOTICE OF EXERCISE OF STOCK OPTION

Compensation Department 399 Park Avenue, 11th Floor New York, NY 10022-4679 Fax: (212) 526-8309



I hereby exercise 3,379 shares at a price of \$71.39 evidenced by the stock option Agreement dated December 10, 2003 pursuant to the Lehman Brothers Employee Incentive Plan (the "Plan"). I. PAYMENT OF COST OF EXERCISE I have elected to fund this exercise having an aggregate exercise price of  $\frac{240,869}{}$  (# of shares X \$71.39) by the following method (please check one): ☐ 1. I am tendering unrestricted shares that I have owned for more than six months to cover the cost of the option exercise. I authorize Lehman Brothers to deduct the appropriate number of shares from my Lehman Brothers brokerage account # 2. I authorize The Bank of New York to sell shares to cover the cost of the option exercise ("same-day sale"). ☐ 3. I authorize Lehman Brothers to make a cash debit from my Lehman Brothers brokerage account to cover the cost of the option exercise. 4. I am enclosing a check made payable to Lehman Brothers to cover the cost of the exercise. II. PAYMENT OF TAX WITHHOLDING OBLIGATION I have elected to pay for any withholding obligation by the following method (please check one): 1. I authorize Lehman Brothers to deduct the appropriate number of shares from the shares that I will receive as a result of this exercise equal in value to the withholding taxes, rounded up to the nearest number of whole shares. 2. I authorize The Bank of New York to sell shares to cover the payment of any required withholding tax ("same-day sale"). 3. I authorize Lehman Brothers to make a cash debit from my Lehman Brothers brokerage account to cover the payment of any required withholding tax. 4. I am enclosing a check made payable to Lehman Brothers to cover the payment of any required withholding tax. III. SHARE RETENTION OR LIQUIDATION 1. Please deposit shares that I acquire through this option exercise into my Lehman Brothers brokerage account # 2. authorize The Bank of New York to sell shares resulting from this option exercise. Lastly, I acknowledge receipt of a copy of the Plan and a copy of the Prospectus relating to the Plan. 079-56-7802

BNYIC - Domestic Customer Form

# CASHLESS EXERCISE AND SALE FORM

If exercising more than one stock option grant, please attach a separate sheet listing all option totals.

AUTHORIZATION TO SELL: In connection with my request to exercise one or more stock option(s) held by me to
acquire 3374 (number of shares), with a Grant Date of 12/10/03 and an exercise cost of \$ 7/, 39
of Lehman Brothers Holdings (the "Company") stock, I hereby authorize BNY Investment Center Inc. ("BNYIC")
to sell all shares acquired through the exercise, in accordance with oral or written instructions received from either
me or the Company. THIS ELECTION IS IRREVOCABLE. Once BNYIC has received my cashless stock option form(s) and has established an account for me, and the Company has validated the options specified above, I
authorize BNYIC to:
Sell the shares specified above at the prevailing market price at the time of sale; or
[ ] Daily limit sell order. Sell the shares specified at not less than US\$per share on the date
forms are received by BNYIC. If the order is not executed on the day the forms are received, I understand that I will be required to submit new paperwork each day until order can be executed at my daily limit price. NOTE: Limit orders may be subject to partial executions resulting in additional commission fees and charges.
I understand that BNYIC will charge its standard commission and other fees in connection with any sale. I
authorize BNYIC to rely on any oral or written instructions received from me or the Company and agree to
indemnify and hold harmless BNYIC and its affiliates, as well as their respective officers, directors, employees and
agents, from and against any liability, claim, loss, cause of action, damage or cost (including attorneys' fees) arising
out of or in connection with such instructions or reliance.
DIVIDENDS OR DISTRIBUTIONS: In the event there is a cash or stock dividend, split, spin-off or other similar
distribution paid directly to me on these shares and I have sold the shares prior to the "ex-dividend", "ex-split" or
"ex-distribution" date, I agree to deliver such dividend, split shares or other distribution to BNYIC as soon as practicable after my receipt of such dividend, shares or distribution.
PAYMENT OF PROCEEDS: I authorize BNYIC to pay the total exercise price to the Company, representing the
purchase price of the shares acquired upon exercise of the above options. With respect to any remaining proceeds
after deduction of the total exercise price, any applicable withholding taxes and applicable commissions and other miscellaneous fees, I authorize BNYIC to pay them in accordance with the instructions listed on my account
application in (indicate only one choice for option 1 & 2)
[] Wire** [] Check***
** Wired Funds - Complete the Authorization For Wire Transfer below: (Note: If no wire instructions are
listed or if instructions are incorrect, proceeds will remain in the brokerage account. In addition to the wire fee
charged by BNYIC, there may be <u>additional charges</u> imposed by your receiving Bank and correspondent Banks.)
*** Check - Checks are mailed via US Postal Service.
Signature: CWSchrenhen Print Name: Charles W. Schoenhere
Signature: Print Name: Print Name:
AUTHORIZATION FOR WIRE TRANSFER
Receiving Bank Name Cornerstone Bank Bank Phone Number 203-356-0111
Receiving Bank Address 550 Sunner ST, Stanford CT 6901 & SWIFT Routing #
Name(s) on Bank Account Charles + Rosemary Bank Account # Bank Account # Schoesherr
SCHOENTELL
SIGNATURE: Cus choenher
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# NOTICE OF EXERCISE OF STOCK OPTION

Compensation Department 399 Park Avenue, 11th Floor New York, NY 10022-4679 Fax: (212) 526-8309



I hereby exercise 5,038 shares at a price of \$54.42 evidenced by the stock option Agreement dated December 11, 2002 pursuant to the Lehman Brothers Employee Incentive Plan (the "Plan").
I. PAYMENT OF COST OF EXERCISE
I have elected to fund this exercise having an aggregate exercise price of \$ 274,167 (# of shares X \$54.42) by the following method (please check one):
☐ 1. I am tendering unrestricted shares that I have owned for more than six months to cover the cost of the option exercise. Fauthorize Lehman Brothers to deduct the appropriate number of shares from my Lehman Brothers brokerage account #
2. I authorize The Bank of New York to sell shares to cover the cost of the option exercise ("same-day sale").
3. Lauthorize Lehman Brothers to make a cash debit from my Lehman Brothers brokerage account #
☐ 4. I am enclosing a check made payable to <i>Lehman Brothers</i> to cover the cost of the exercise.
II. PAYMENT OF TAX WITHHOLDING OBLIGATION
I have elected to pay for any withholding obligation by the following method (please check one):
□ 1. I authorize Lehman Brothers to deduct the appropriate number of shares from the shares that I will receive as a result of this exercise equal in value to the withholding taxes, rounded up to the nearest number of whole shares.
2. I authorize The Bank of New York to sell shares to cover the payment of any required withholding tax ("same-day sale").
☐ 3. I authorize Lehman Brothers to make a cash debit from my Lehman Brothers brokerage account # to cover the payment of any required withholding tax.
4. I am enclosing a check made payable to Lehman Brothers to cover the payment of any required withholding tax.
III. SHARE RETENTION OR LIQUIDATION
☐ 1. Please deposit shares that I acquire through this option exercise into my Lehman Brothers brokerage account #
2. I authorize The Bank of New York to sell shares resulting from this option exercise.
Lastly, I acknowledge receipt of a copy of the Plan and a copy of the Prospectus relating to the Plan.
Name_CWSchoenlen
SSN_ 079-56-7802 Date 12/21/05

Filed 05/17/12 Entered 06/06/12 12:16:35 Doc 28486

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Main Document

BNYIC - Domestic Customer Form

- Stanford, CT 06901

## CASHLESS EXERCISE AND SALE FORM

If exercising more than one stock option grant, please attach a separate sheet listing all option totals. AUTHORIZATION TO SELL: In connection with my request to exercise one or more stock option(s) held by me to (number of shares), with a Grant Date of 12/11/02 and an exercise cost of \$ 54.42acquire 5,038 of Lehman Brothers Holdings (the "Company") stock, I hereby authorize BNY Investment Center Inc. ("BNYIC") to sell all shares acquired through the exercise, in accordance with oral or written instructions received from either me or the Company. THIS ELECTION IS IRREVOCABLE. Once BNYIC has received my cashless stock option form(s) and has established an account for me, and the Company has validated the options specified above, I authorize BNYIC to. Sell the shares specified above at the prevailing market price at the time of sale; or [ ] Daily limit sell order. Sell the shares specified at not less than US\$\_ per share on the date forms are received by BNYIC. If the order is not executed on the day the forms are received, I understand that I will be required to submit new paperwork each day until order can be executed at my daily limit price. NOTE: Limit orders may be subject to partial executions resulting in additional commission fees and charges. I understand that BNYIC will charge its standard commission and other fees in connection with any sale. I authorize BNYIC to rely on any oral or written instructions received from me or the Company and agree to indemnify and hold harmless BNYIC and its affiliates, as well as their respective officers, directors, employees and agents, from and against any liability, claim, loss, cause of action, damage or cost (including attorneys' fees) arising out of or in connection with such instructions or reliance. DIVIDENDS OR DISTRIBUTIONS: In the event there is a cash or stock dividend, split, spin-off or other similar distribution paid directly to me on these shares and I have sold the shares prior to the "ex-dividend", "ex-split" or "ex-distribution" date, I agree to deliver such dividend, split shares or other distribution to BNYIC as soon as practicable after my receipt of such dividend, shares or distribution. PAYMENT OF PROCEEDS: I authorize BNYIC to pay the total exercise price to the Company, representing the purchase price of the shares acquired upon exercise of the above options. With respect to any remaining proceeds after deduction of the total exercise price, any applicable withholding taxes and applicable commissions and other miscellaneous fees, I authorize BNYIC to pay them in accordance with the instructions listed on my account application in (indicate only one choice for option 1 & 2) [ ] Wire\*\* [ ] Check\*\*\* \*\* Wired Funds - Complete the Authorization For Wire Transfer below: (Note: If no wire instructions are listed or if instructions are incorrect, proceeds will remain in the brokerage account. In addition to the wire fee charged by BNYIC, there may be additional charges imposed by your receiving Bank and correspondent Banks.) \*\*\* Check - Checks are mailed via US Postal Service. harles Schoenherr Signature: AUTHORIZATION FOR WIRE TRANSFER Receiving Bank Name Bank Phone Number Receiving Bank Address eT & SWIFT Routing # Bank Account Name(s) on Bank Account ( (As they appear on your statement) SIGNATURE: